

Chapter 53

(House Bill 609)

AN ACT concerning

Local Health Officers – Removal – ~~Grounds and~~ Process

FOR the purpose of repealing a provision of law providing that a health officer serves at the pleasure of the Secretary of Health and the governing body of the county; establishing ~~the reasons for which a health officer may be removed from office and~~ notice and hearing requirements related to a removal of a health officer from office; prohibiting a health officer who appeals a certain decision of the Secretary from carrying out the duties of health officer while the appeal is pending; and generally relating to the removal of health officers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 3–302
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 11–305
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

3–302.

(a) The health officer for a county shall be nominated by the county and appointed by the Secretary.

(b) (1) The governing body of each county shall establish, by ordinance or resolution, the process by which the county nominates an individual for health officer.

(2) If a vacancy occurs in the position of health officer for a county, the governing body shall establish a process, in consultation with the Department, for making a recommendation to the Secretary for the appointment of a health officer.

(3) The process established under paragraph (2) of this subsection shall include the requirements for recruiting, interviewing, and recommending applicants for the position of health officer.

(c) (1) If the Secretary finds that a nominee meets the qualifications of this section, the Secretary shall appoint the nominee as health officer.

(2) If the Secretary finds that the nominee does not meet the qualifications of this section, the Secretary shall reject the nomination, and the county shall provide the Secretary with another nomination.

(d) Each health officer:

(1) Shall have:

(i) A master's degree in public health and at least 2 years' work in the field of public health; or

(ii) At least 5 years' work in the field of public health;

(2) Shall have any other qualifications and training in the field of public health that the Secretary requires by rule or regulation; and

(3) Need not be a physician, if the health officer has a deputy who:

(i) Is a physician; and

(ii) Meets the qualifications of this subsection.

(e) Before taking office, each appointee to the office of health officer shall take the oath required by Article I, § 9 of the Maryland Constitution.

[(f) The health officer for a county serves at the pleasure of the governing body of that county and the Secretary.]

[(g)] (F) (1) The health officer for a county may be removed from office with the concurrence of the governing body of that county and the Secretary ~~FOR THE FOLLOWING REASONS:~~

~~(I) IMMORALITY;~~

~~(II) MISCONDUCT IN OFFICE;~~

~~(III) INSUBORDINATION;~~

~~(IV) INCOMPETENCY INCOMPETENCE; OR~~

~~(V) WILLFUL NEGLIGENCE OF DUTY.~~

(2) (i) Any information concerning the removal of a health officer from office is confidential in accordance with Title 4 of the General Provisions Article.

(ii) Any meeting of the governing body of a county or any meeting that includes the Secretary related to the removal of a health officer from office shall be closed.

(3) (I) IF THE SECRETARY AND THE GOVERNING BODY CONCUR ON THE REMOVAL OF A HEALTH OFFICER, THE SECRETARY SHALL PROVIDE WRITTEN NOTIFICATION TO THE HEALTH OFFICER THAT INCLUDES:

1. THE BASIS FOR THE REMOVAL, ~~SUBJECT TO THE REASONS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION;~~

2. DOCUMENTATION SUPPORTING THE REMOVAL; AND

3. NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING WITH THE SECRETARY WITHIN 10 DAYS AFTER RECEIPT OF THE WRITTEN NOTIFICATION AND INFORMATION ON HOW TO REQUEST THE HEARING.

(II) IF THE HEALTH OFFICER REQUESTS A HEARING WITH THE SECRETARY:

1. THE SECRETARY PROMPTLY SHALL HOLD A HEARING, PROVIDED THAT THE HEARING MAY NOT BE HELD ~~WITHIN~~ SOONER THAN 10 DAYS OR LATER THAN 30 DAYS AFTER THE SECRETARY SENDS THE HEALTH OFFICER A NOTICE OF THE ~~HEARING DATE~~ REMOVAL; ~~AND~~

2. THE HEALTH OFFICER SHALL HAVE AN OPPORTUNITY TO BE HEARD ~~PUBLICLY~~ BEFORE THE SECRETARY IN THE HEALTH OFFICER'S DEFENSE; AND

3. THE SECRETARY SHALL MAKE A FINAL DECISION NOT LATER THAN 10 DAYS AFTER THE DATE OF THE HEARING, ~~WHETHER IN PERSON OR BY COUNSEL.~~

~~(4) A HEALTH OFFICER MAY APPEAL THE DECISION OF THE SECRETARY AT A HEARING REQUESTED UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION TO THE OFFICE OF ADMINISTRATIVE HEARINGS NOT LATER THAN 30 DAYS AFTER THE SECRETARY MAKES A DECISION UNDER PARAGRAPH (3) OF THIS~~

SUBSECTION, A HEALTH OFFICER MAY REQUEST A HEARING BEFORE THE APPROPRIATE CIRCUIT COURT TO ENSURE THAT THE PROCEEDINGS FOR THE REMOVAL OF THE HEALTH OFFICER WERE CONDUCTED IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

Article – State Personnel and Pensions

11–305.

(a) **(1) This section [only] applies ONLY to an employee who is in a position:**

[(1)] (I) under a special appointment;

[(2)] (II) in the management service; or

[(3)] (III) in the executive service.

(2) THIS SECTION DOES NOT APPLY TO A HEALTH OFFICER APPOINTED UNDER § 3–302 OF THE HEALTH – GENERAL ARTICLE.

(b) **Each employee subject to this section:**

(1) serves at the pleasure of the employee’s appointing authority; and

(2) may be terminated from employment for any reason that is not illegal or unconstitutional, solely in the discretion of the appointing authority.

(c) A management service employee or a special appointment employee designated by the Secretary under § 4–201(c)(2)(i) of this article may not be terminated for the purpose of creating a new position for another individual’s appointment because of that individual’s political affiliation, belief, or opinion.

(d) An employee or an employee’s representative may file a written appeal of an employment termination under this section as described under § 11–113 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Gubernatorial Veto Override, April 9, 2022.